

REMARKS

Claims 1, 2, 4-8, 11-29 were presented for examination. Claims 3, 9, 10, and 30-32 were cancelled. The Examiner objected to the amendments made to the specification. The Examiner rejected claims 1-2, 4-8, and 11-29 under 35 U.S.C. § 112, first paragraph. The Examiner rejected claims 1-2, 4-8, and 11-29 under 35 U.S.C. § 112, second paragraph. Also, the Examiner rejected claims 1, 2, 11, 12, and 22-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6, 542,967 to Major (“Major”) in view of U.S. Pat. No. 6,324,182 to Burns *et al.* (“Burns”) in further view of U.S. Pat. No. 6,016,535 to Krantz *et al.* (“Krantz”). Also, the Examiner rejected claims 4, 5, 13-15, 25, and 26 under 35 U.S.C. § 103(a) as being unpatentable over Major in view of Burns in view of Krantz in further view of U.S. Pat. No. 6,678,793 to Doyle (“Doyle”). Further, the Examiner rejected claims 8, 16-21, and 27-29 under 35 U.S.C. § 103(a) as being unpatentable over Major in view of Burns in view of Krantz in further view of U.S. Pat. No. 6,233,618 to Shannon (“Shannon”).

No claims have been added in the present amendment and response. The Specification and claims 1, 2, 4, 11, 13, and 22 are herein amended. No new matter has been added. Upon entry of this Amendment and Response, claims 1, 2, 4-8, 11-29 remain pending, of which claims 1, 11, and 22 are independent.

Objection to the Specification

The Examiner objected to the amendments made to the specification under 35 U.S.C. § 132(a) because it introduces new matter. Applicants herein remove the previous amendments thereby rendering the objection moot. Applicants maintain the position that the amendments to the terms “streaming” and the phrase “the ability to cache streaming content” were fully supported by the specification and by their common usage by those of ordinary skill in the art.

Rejection of claim 1-2, 4-8, and 11-29 under 35 U.S.C. § 112, first paragraph

The Examiner rejected claim 1-2, 4-8, and 11-29 as failing to comply with the enablement requirement. Applicants herein amend claims 1, 2, 4, 11, 13, and 22. Applicants respectfully submit that the claims as amended are fully supported by the specification.

Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1- 2, 4-8, and 11-29 under 35 U.S.C. § 112, first paragraph.

Rejection of claim 1-2, 4-8, and 11-29 under 35 U.S.C. § 112, second paragraph

The Examiner rejected claim 1-2, 4-8, and 11-29 as being indefinite. Applicants herein amend claims 1, 2, 4, 11, 13, and 22 to remove the term “simultaneously” from the independent claims 1, 11, and 22. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1- 2, 4-8, and 11-29 under 35 U.S.C. § 112, first paragraph.

Rejection of claims 1- 2, 11, 12, and 22-24 under 35 U.S.C. § 103(a)

Also, the Examiner rejected claims 1-2, 11, 12, and 22-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6, 542,967 to Major (“Major”) in view of U.S. Pat. No. 6,324,182 to Bruns *et al.* (“Burns”) in further view of U.S. Pat. No. 6,016,535 to Krantz *et al.* (“Krantz”). Applicants traverse the rejection to the extent is maintained against the claims as amended.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art as modified or combined, must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Appellants’ disclosure. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); *see also* MPEP §2142.

The initial burden is on the Examiner to provide some suggestion of the desirability of doing what the inventor has done. “To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the

artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *See Ex parte Clapp*, 227 USPQ 972, 973 (BPAI 1985); *see also* MPEP §2142.

Summary of Major

Major, as previously stated, is concerned with caching static content such as webpages and files and not with caching of “streaming” content. This characterization of Major was discussed with Examiner during the previous interview.

Summary of Burns

Burns describes a version of “store and forward”. Burns monitors usage and then decides what content to pre-populate on the edge servers of Burns. During the personal interview it was discussed with the Examiner that Burns does not deal with caching of “streaming” content.

Summary of Krantz

Krantz is generally directed to a method for dynamically caching data objects in a logical cache memory begins by organizing the logical cache memory into a set of maximally equally-sized, contiguous pages that begin at a logical cache base address. Any one of the maximal size logical cache pages may be dynamically subdivided into a set of smaller pages of equal size. The smaller size pages cache data objects having a smaller size than the maximum possible data object size. *See* Abstract.

Argument

Applicants respectfully submit that the claims as amended are not obvious in light of the cited prior art references, because they do not do not teach or suggest all the claim limitations. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Each of the independent claims recite, in one form or another, caching locally at least a first portion of the received streaming content. The “streaming content” as has been previously discussed is substantially different that static content. Applicants respectfully submit that at the

time of filing of the application, “streaming content” was well defined in the art and had a meaning to those of ordinary skill in the art.

During the previous interview with the Examiner, it is shown that neither Major or Burns discloses, teaches, or suggests caching streaming content. Krantz does nothing to cure this deficiency. Krantz is silent as to caching “streaming content”. However, each of Applicants independent claims recites, in one form or another, caching locally at least a first portion of the received streaming content.

Therefore, any hypothetical combination of Major, Burns, and Krantz does not disclose, teach, or suggest each limitation of independent claims 1, 11, and 22. Therefore, Applicant respectfully request the Examiner reconsider and withdraw the rejections of claims 1-2, 11, 12, and 22-24 under 35 U.S.C. § 103(a).

Rejection of claims 4, 5, 13-15, 25, and 26 under 35 U.S.C. § 103(a)

The Examiner rejected claims 4, 5, 13-15, 25, and 26 under 35 U.S.C. § 103(a) as being unpatentable over Major in view of Burns in view of Krantz in further view of U.S. Pat. No. 6,678,793 to Doyle (“Doyle”). Applicants traverse the rejection to the extent is maintained against the claims as amended. Each of claims 4, 5, 13-15, 25, and 26 depend from an allowable base claim and recite further limitations thereon. As such, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 4, 5, 13-15, 25, and 26 under 35 U.S.C. § 103(a).

Rejection of claims 8, 16-21, and 27-29 under 35 U.S.C. § 103(a)

The Examiner rejected claims 8, 16-21, and 27-29 under 35 U.S.C. § 103(a) as being unpatentable over Major in view of Burns in view of Krantz in further view of U.S. Pat. No. 6,233,618 to Shannon (“Shannon”). Applicants traverse the rejection to the extent is maintained against the claims as amended. Applicants traverse the rejection to the extent is maintained against the claims as amended. Each of claims 8, 16-21, and 27-29 depend from an allowable base claim and recite further limitations thereon. As such, Applicants respectfully request

reconsideration and withdrawal of the rejection of claims 8, 16-21, and 27-29 under 35 U.S.C. § 103(a).

CONCLUSION

In view of the above remarks, Applicants believes the pending application is in condition for allowance.

Please charge any additional necessary fees or credit any overpayments to Deposit Account No. 03-1721.

Respectfully submitted,

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